

REMARKS

Claims 1-18 were reconsidered and rejected in the Office Action of August 20, 2003 as follows: (1) claims 1, 3-5, 7, 9-11 and 13 under 35 USC 102(b) by Campbell et al; (2) claims 2, 8, 12, 15 and 16 under 35 USC 103(a) over Campbell et al; and (3) claims 5, 6, 13, 14, 17 and 18 under 35 USC 103(a) over Campbell et al in view Yabu.

These rejections are again respectfully traversed

(1)

For anticipation under 35 USC 102 to apply, each positively recited limitation in a claim must be disclosed in a single reference, *In re Bond* 15 USPQ 2d 1566 (Fed. Cir. 1990). Therefore, for Campbell et al to anticipate claims 1, 3-5, 7, 9-11 and 13, it must disclose each positively limitation recited in these claims.

It is respectfully submitted that Campbell et al does not meet this test.

Claim 1 recites that the threads as woven "provide a roughened or irregular surface." The examiner notes that "...since the Campbell reference teaches a leno weave formed from two different warp yarns, which is the claimed structure, the Campbell structure would have to be the same as the claimed structure..... Campbell....must have the same properties of being irregular and roughened."

Applicants cannot agree with this construction of Campbell or that such a construction is permitted under either 35 USC 102 or 103.

The fact that Campbell et al does disclose "two types of warp threads" does not, it is respectfully submitted, lead to the conclusion that the surface of Campbell et al is "roughened or irregular." Inherent teachings from a reference is based on the clear and convincing

evidentiary standard. When this standard is applied, it is respectfully submitted that Campbell et al does not possess a clear and convincing disclosure of the noted limitation. This conclusion is reinforced when we consider the disclosure in column 1, lines 57-59 of Campbell et al, namely, "Our new waistband, unlike the prior art waistbands, is used entirely by itself and *has a smooth, nice-appearing surface that may be left exposed in the final garment.*"

Claim 7 recites an "antislip strip." Here again inherency is applied but is misplaced for the same reason, i.e., it does not meet the evidentiary standard. There is a disclosure that "...the individual yarns do not slip or slide *with respect to each other.*" But non-slippage relative to each other does not tell us whether the entire strip is an antislip strip. All we have is the disclosure quoted above from column 5, lines 41-42 of Campbell et al, and this is not enough to justify the application of 35 USC 102.

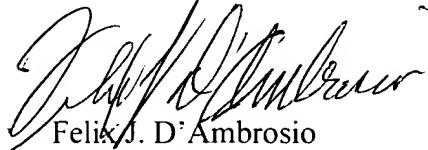
(2) - (3)

Unpatentability under 35 USC 103 requires a suggestion in the reference(s), regarding the limitation(s) claimed, *In re Gordon*, 221 USPQ 1125 (Fed. Cir. 1984). The required suggestion is not seen in any of the references.

New claim 19 is essentially a combination of claims 1 - 6 which has not been previously examined, although clearly supported by the application as originally filed

The examiner is urged to consider the above when examining the further RCE application and find claims 1-18 and new claim 19 allowed.

Respectfully submitted,



Felix J. D'Ambrosio
Reg. No. 25,721

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BACON & THOMAS
625 Slaters Lane, 4th Floor
Alexandria, VA 22314 - 1176
(703) 683-0500